

ENCLOSURE No. 2

**Agreement Concerning Joint Use
by Japan Ground Self Defense Forces
of USFJ Facilities**

at
Kadena Ammunition Storage Area, FAC 6022

UTILITY SALES AGREEMENT

Utility Sales Agreement by and between the USAF, 18th Wing, Kadena Air Base, Okinawa Prefecture, Japan, (hereinafter called the United States Government or USG), represented by the Base Civil Engineer (hereinafter the BCE) executing this agreement and Japan Ground Self Defense Forces (hereinafter called the JGSDF or purchaser).

WITNESSED THAT:

WHEREAS the USG has potable water service and electricity (hereinafter called utility service) available;

WHEREAS the purchaser cannot readily obtain these utility services from any other source and desires to obtain this utility service from the USG for use for the JGSDF facility at the Kadena Ammunition Storage Area, Okinawa Prefecture, Japan, and

WHEREAS construction of facilities in connection with the sale of this utility service to the purchaser will not hinder the construction of public or private utility service facilities of a like nature, and

WHEREAS pursuant to Section 2686 of Chapter 159 of Title 10 of the United States Code, *Utilities and Services: Sale; Expansion and Extension of Systems and Facilities*, as implemented in Air Force Instruction 32-1061, *Providing Utilities to the US Air Force Installations*, dated 15 March 2002, the USG is authorized to sell this utility service to the purchaser.

NOW, THEREFORE, the parties hereto mutually agree, as follows:

1. **UTILITY SERVICE TO BE PROVIDED.** From and after the effective date of this agreement, the USG will furnish, subject to the limitation hereinafter provided, and the purchaser will receive and pay for this utility service as described in Exhibits A-1 and A-2, Utility Service Specifications, attached hereto and made a part hereto and made a part hereof. This service is furnished as an accommodation to the purchaser as reflected in MEMO No. 4540, approved by the United States - Japan Joint Committee on 16 October 2003, and a Memorandum of Understanding International which includes this agreement. This service is subject to the conditions in MEMO No. 4540, not being available from another source, and being in the collective security interests of the USG and the Government of Japan.

2. **LIABILITY.** Liability shall be handled in accordance with MEMO No. 4540; provided, however, the USG, its officers, employees, members, and agents, shall not be liable for any claim or action that may be asserted in connection with the service furnished under this agreement, including, but not limited to, failure to provide continuous utility service, curtailment of utility service, or termination of utility service.

3. **USE OF SERVICE.** The purchaser shall use the utility service in a manner as not to interfere with, or disrupt in any way, the requirements of the USG or any other purchaser served by the USG. The utility service shall be for the exclusive use of the purchaser and shall not be used for resale.

4. **USE IN THE KADENA AMMUNITION STORAGE AREA.** Use of the Kadena Ammunition Storage Area is subject to the terms and conditions of MEMO No. 4540.

5. **FACILITIES TO BE PROVIDED.** Construction and utility service connections are subject to the terms and conditions of MEMO No. 4540.

6. **RECAPTURE.** In the event that this agreement is terminated in accordance with the terms hereof, the USG shall have the right to recapture immediately any utility facility it may have furnished in connection with the sale of utility service to the purchaser.

7. **RATES AND PAYMENT.** For utility service furnished to the purchaser under this agreement, the purchaser shall pay the USG at the rates specified in AF Form 3555, Utility Sales Rates, Exhibit B, attached hereto and made a part hereof.

Whenever the sales rates require adjustment, the purchaser will be provided a new Exhibit B showing the new rates and the date the new rates are effective. The purchaser shall be charged at the local prevailing rate for similar service, but not less than the cost to the USG of supplying the service. The local prevailing rate is the current rate the purchaser would be charged for a particular class of service that could be obtained directly from the nearest off-base utility supplier.

During the life of this agreement, if there is a change in the applicable local prevailing rate or in the cost to the USG of supplying the utility service, the rates set forth herein will be adjusted as required to conform therewith. Costs to the USG of supplying the utility service are recalculated for the utility service not later than 1 December of each year, using prior USG fiscal year cost data and at any time the purchased cost to the USG changes. New rates to the purchaser shall become effective on 1 December each year and on the date a change in purchased cost to the USG becomes effective or on the effective date of any change in the applicable local prevailing rate. The USG agrees to furnish, subject to the conditions set forth herein, and the purchaser agrees to take and pay for the utility service at the adjusted rate from and after the date the adjusted rates are made effective.

Should the USG be billed on the basis of a proposed rate increase, subject to the approval of a regulatory body, the purchaser shall be billed accordingly. If the proposed rate is subsequently denied or reduced, then any refund due the purchaser will be applied against future billings.

The USG will render invoices to the purchaser. All invoices for utility services will be due and payable 30 days after the date of an invoice. Late payment charges at the rate specified in DoD 7000.14-R, volume 10, apply if payment is not received within 30 days after the date of an invoice.

8. **METERING.** The purchaser shall install a meter at its expense in accordance with MEMO No. 4540. In the event a meter fails to register during any metering period, the daily average consumption of any previous representative period of the period the meter failed will be used. Meters shall be tested in accordance with Japanese standards. The purchaser shall notify the BCE's utility engineer within thirty (30) days of any change affecting estimated consumption, such as more or less square feet occupied, or more or less equipment installed that use water.

9. **DISPUTES.** If a dispute arises under this agreement, the purchaser and the BCE shall endeavor to reach a mutual agreement. Pending final resolution of a dispute, utility service shall continue and be paid for under the terms and conditions set forth in this agreement.

10. **TERMINATION.** Service under this agreement may be terminated upon release of the pertinent portions of land by the USG to the Government of Japan, mutual consent, noncompliance with the terms of this agreement or MEMO No. 4540, or reason of military necessity.

11. **APPROVAL.** This agreement is subject to the written approval of the installation commander. The approval of the installation commander shall have occurred when the installation commander signs the Memorandum of Understanding International to which this Enclosure No. 2 is attached.

12. **AGREEMENT CONTENTS.** Attached to and made a part of this agreement are:

- (a) Utility Service Specifications, Exhibit A, and
- (b) AF Form 3555, Utility Sales Rates, Exhibit B.

Exhibit A-1

**UTILITY SERVICE SPECIFICATIONS
FOR
POTABLE WATER**

Attached to and made part of utility sales agreement.

1. ESTIMATED POTABLE WATER SERVICE:

Estimated annual consumption: (219kGal) 829 KL (1,000 liters)

2. QUALITY OF POTABLE WATER. The USG will supply the purchaser with the same quality of potable water as the water obtained by the USG from its supplier or source of water.

3. POINT OF DELIVERY. The point of delivery of potable water will be at the point of connection with the USG's potable water line as described generally in MEMO No. 4540, dated 16 October 2003.

4. METERING. Potable water will be measured by USER owned and maintained flow metering.

5. ALTERATIONS AND ADDITIONS. None.

Exhibit A-2

UTILITY SERVICE SPECIFICATIONS
FOR
ELECTRICITY

Attached to and made part of utility sales agreement.

1. ESTIMATED ELECTRIC POWER SERVICE:

Estimated annual consumption: 235.84 KW (1,000 Watts)

2. DESCRIPTION OF ELECTRIC SERVICE. The USG will supply the purchaser with the same voltage of as the electric power obtained by the USG from its supplier or source of electric power.

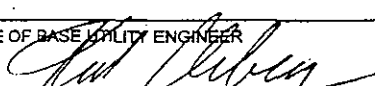
3. POINT OF DELIVERY. The government will supply 3 phase, 4 wire, 60 hertz, plus or minus 0.5 hertz alternating current at 120/240 volts as described generally in MEMO No. 4540, dated 16 October 2003.

4. METERING. Electric service will be measured at 100 volts by 2 watt-hour meter(s) and 2 demand meter(s).

5. ALTERATIONS AND ADDITIONS. None.

Exhibit B

**AF FORM 3555
UTILITY SALES RATES
FOR
POTABLE WATER AND ELECTRIC**

UTILITY SALES RATES, EXHIBIT <u>J-1</u>			
RATES EFFECTIVE AS OF <u>1 OCT 04</u> , are hereby attached to and made part of the Utility Sales Contract/Agreement Number <u>JGSDF - AMMO</u>			
NAME OF FACILITY			
SERVICE PER UNIT OF MEASUREMENT	RATES	ESTIMATED ANNUAL	
		CONSUMPTION	COST
Electricity per kilowatt hour (KWH) \$/KWH		KWH	
Gas per 1,000 cubic feet (MCF) \$/MCF		MCF	
Steam per pound (+ 1,340 BTU per pound) \$/lb			
High Temp Hot Water per \$/			
Water per 1,000 gallons (KGAL) \$/KGAL	56 Yen	3634 m ³	
	210 Yen	960 KGAL	201,815 YEN
Sewage per 1,000 gallons (KGAL) \$/KGAL		KGAL	
Refuse Collection and Disposal per \$/			
*When utility service is provided to a purchaser at more than one facility, prepare a separate Exhibit for each facility (i.e., Exhibit A-1, Aero Club; Exhibit A-2, Bowling Center).			TOTAL ESTIMATED ANNUAL COST
			201,815 YEN
SIGNATURE OF BASE UTILITY ENGINEER			DATE
			31 JAN 05

AF FORM 3555, 19921201 (EF-V4)